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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 212, and 252

RIN 0750-AG83

Defense Federal Acquisition Regulation Supplement: Reporting of Government-Furnished Property (DFARS Case 2012-D001)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise and standardize reporting requirements for Government-furnished property.

DATES: Effective Date: [Insert date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, telephone 571-372-6098.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule under DFARS Case 2009-D043 in the Federal Register at 75 FR 80426 on December 22, 2010. Subsequently, DoD published a second proposed rule, under DFARS Case 2012-D001, in the Federal Register at 76 FR 64885 on

October 19, 2011, to revise and standardize reporting requirements for Government-furnished property to include items uniquely and non-uniquely identified, and to clarify policy for contractor access to Government supply sources. DoD held a public meeting to discuss the second proposed rule on November 17, 2011. One respondent submitted comments in response to the second proposed rule. Discussions from the public meeting held to discuss the second proposed rule, as well as the public comments, were considered in drafting this final rule.

II. Discussion and Analysis of the Public Comments

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments is provided, as follows:

A. Summary of significant changes

The revisions modify and standardize contractor Government property reporting requirements, making revisions that are necessary given DoD's emphasis on property accountability. The final rule alters the requirements of the current clause, which requires Defense contractors to report (primarily) Government-furnished equipment items valued at \$5,000 or more, to a new requirement to report all serialized Government-furnished property regardless of unit acquisition value. The revised reporting requirement includes electronic receipt requirements,

which will be expanded to non-serialized items by 2014. This effort is consistent with Secretary of Defense memorandum dated October 13, 2011, which emphasizes both asset accountability and the need to accelerate key elements of DoD's audit readiness plans.

B. Analysis of public comments

1. General

Comment: A respondent stated that the rule is "premature." The respondent thought that the current DFARS and its associated contract clause at 252.211-7007, Reporting of Government-Furnished Property, should include a summary of end processes for various types of contracts, such as production, depot, or services, and should include references to business rules used in each type of arrangement. The respondent also proposed that the "military departments must own the end to end process and use the IUID registry as a tool to manage process, programs and items. The IUID Registry must be integrated into other DoD business management systems. A stand-alone contractor centric system will not provide sufficient benefits to sustain existence." In support of its position, the respondent proposed to add to the DFARS text, at 211.274-4, a new paragraph (f) as follows:

"A phased approach by program and department,
shall be taken to populate the IUID Registry as

determined and directed by the Director, Defense Procurement & Acquisition Policy."

The respondent further stated that including the proposed DFARS text in part 211, rather than DFARS part 245, makes the requirements part of a Government-furnished property reporting system rather than part of the contractor's Government property system.

Response: As suggested by the respondent in separate correspondence, this revision to current DFARS requirements may be long overdue. In a letter dated October 18, 2011, the respondent requested the Director, DPAP, to "remind DoD agencies of their obligation to use the IUID registry as the system of record for GFP in the custody of contractors." DoD has been considering those changes and has considered public comments submitted in response to two proposed rules and a public meeting.

A phased implementation, as suggested by the respondent, would not be consistent with Secretary of Defense memorandum dated October 13, 2011, "Improving Financial Information and Achieving Audit Readiness," which emphasizes both asset accountability and the need to accelerate key elements of DoD's audit readiness plans.

DoD agrees that, as reflected in the proposed rules and final rule, DFARS part 211 is the appropriate place for

including DoD policy for reporting Government-furnished property required to be recorded in the IUID registry because item identification and valuation, addressed at DFARS subpart 211.2, are considered to be elements of the specifications, or requirements, for a contract.

2. Reporting threshold of \$5,000

Comment: The respondent strongly proposed to revise the overall policy for reporting of Government-furnished property, at DFARS 211.274-4(a), in order to retain the \$5,000 reporting threshold and "remain consistent with internal or DoD guidance DODI 5000.64."

Response: The final rule is consistent with the current DoD Instruction 5000.64, which requires accountability of all Government furnished property regardless of dollar value.

3. Items to be reported above the \$5,000 threshold

Comment: The second proposed rule, at DFARS 211.274-4(b), listed types of property that would not be reported, such as "property under any statutory leasing authority." The respondent proposed, instead, to list at paragraph (b) items, "if significant or material in nature," that "shall be considered for" reporting, e.g., DoD Capital Equipment; and Special Tooling, Special Test Equipment, and Equipment. The respondent stated that its approach would increase reporting visibility for DoD. In addition, the respondent claimed that

"providing (special tooling) is in concert with the spirit of the 'Duncan Hunter National Defense Acquisition Act of FY 2009...Section 815.'" The respondent suggested that the Act's purpose would be served by revising DFARS 252.211-7007(b) to add a table to identify the specific items to be reported to the IUID Registry.

Response: The disclaimer "if significant or material in nature" would create unnecessary ambiguity, possibly resulting in calls for "more consistency." In addition, DoD has not identified a nexus to section 815 of the National Defense Authorization Act for Fiscal Year 2009; the referenced provision refers to the preservation and storage of unique tooling, not whether to furnish special tooling to a contractor under a Government contract. The respondent's suggestion to add a table to paragraph (b) to identify the specific items to be reported to the IUID Registry would largely duplicate the Government-furnished property listing required by FAR 45.201.

4. Remove coverage of contractor-acquired property from Procedures, Guidance and Information (PGI) and add it to the DFARS text

Comment: The respondent objected to the portion of the clause prescription proposed at DFARS 211.274-6 that, at (a)(1)(ii), addressed "cost-reimbursement contracts that may result in the delivery of contractor-acquired property (see

requirements at PGI 245.402-71)." The respondent commented that PGI references should not be contained in regulations. "They (PGI language) are not controlled, nor vetted with the public as required by FAR Part 1.103(b)," in the respondent's estimation. The respondent stated that "PGI is unreliable for regulatory purposes. It provides the PGI writers a form of a blank check."

Response: The language at DFARS 211.274-6 has become obsolete with publication of this final rule and, therefore, is removed. However, regarding references to the PGI in the DFARS regulation, the PGI is a companion resource to the DFARS containing both mandatory and non-mandatory internal procedures, guidance, and supplemental information for Government contracting personnel. While the PGI is non-regulatory, PGI changes are internally coordinated in the same fashion as DFARS proposals, i.e., at the DAR Council level and coordinated with other DoD stakeholders. All PGI changes are vetted to ensure accuracy and reliability of content.

5. The clause at DFARS 252.211-7007, Reporting of Government-Furnished Property, should not include in paragraph (a) definitions of terms that are defined elsewhere

Comment: The respondent quoted FAR 1.304(b)(1) to the effect that material should not be unnecessarily repeated, paraphrased, or restated if it is contained in the FAR or higher-level agency regulations.

Response: FAR 52.202-1, Definitions, states that, "(w)hen a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless...the solicitation, or amended solicitation, provides a different definition...(or) the part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning..." Although the respondent did not specify which definitions were at issue, DoD has reviewed each definition and removed definitions that are not significant to the interpretation of the clause or needed for increased clarity.

6. Requirement to report material at the transaction level

Comment: The respondent interpreted the exception to IUID reporting for material released for work in process, at DFARS 252.211-7007(c), to require reporting of material at the transactional level. The respondent objected to the latter, stating that it "is not practical and would be extremely expensive for contractors and the Government." The respondent stated that "(t)here is no harm to the Government in that furnished material is only for a given contract for a given amount--and is not expected to be available for other uses."

Response: The DFARS rule requires transactional reporting only for the receipt of material. Changes of "state" for

material released to the floor as work-in-process are not required to be reported.

7. Issues regarding the IUID Registry

Comment: The respondent raised several issues regarding the clause at DFARS 252.211-7007, entitled "Reporting of Government-Furnished Property." Citing paragraph (d) of the clause, entitled "Data for reporting to the IUID Registry," the respondent stated that the proposed rule would include items that had been reported previously to the IUID registry. According to the respondent, the rule should address items that were reported as non-UII items that have changed to serially managed items. The respondent requested that the intent of paragraph (d) be made clear.

The respondent also raised issues regarding paragraph (e) of the clause, entitled "Procedures for establishing Unique Item Identifiers," stating that there is "great efficiency in continuing the usage of virtual Unique Item Identifiers as Special Tooling and Special Test Equipment Unique Item Identifiers with concatenated CAGE plus Property Tag."

Also citing paragraph (e) of the clause, the respondent proposed the deletion of item (5), the "mark record" data element. The respondent stated that the enabling of the contractor's reporting system to "pull data" to populate the mark record requirements should be sufficient. The respondent

proposed to delete all the sub-elements under "(5) Mark record" because this is already a reportable event and is defined in paragraph (f) of the clause. Further, the respondent proposed deletion because its position is that material reporting should not be required.

Response: DoD did not make the requested changes because they would not contribute to the desired outcome, i.e., consistent accountability for Government property in the possession of contractors. To the extent items were previously reported, reporting would consist largely of only changes in status or disposition. The language referring to "(5) mark record" was not deleted because it is integral to reporting.

8. Retain current Government systems

Comment: The respondent objected to the proposed DFARS 252.211-7007(g) because it is predicated on the eventual demise of other, existing property management systems. The respondent specifically recommended that the Government retain, and leverage, all current Government systems.

Response: This final rule, and previous rules for Government-furnished property, leverage the use of DoD enterprise systems (standard systems used throughout the DoD enterprise and called out in regulation). These systems include Wide-Area WorkFlow, the DoD IUID Registry, Electronic Document Access, and the Defense Contract Management Agency managed

electronic tools: Plant Clearance Automated Reutilization and Screening System, and property Lost, Theft, Damaged, and Destroyed reporting system. While this final rule does not propose to eliminate any specific DoD system at this time, it is a step toward the elimination of disparate means of GFP reporting. This final rule supports DoD's plans for audit readiness and asset accountability, which will result in some systems coming under greater scrutiny in the near future.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and is summarized as follows:

This final rule revises and standardizes reporting requirements for Government-furnished property to include items uniquely and non-uniquely identified and clarify policy for contractor access to Government supply sources. The clause at 252.211-7007 is significantly revised to eliminate the reported material weakness for DoD with regard to accounting for its property in the hands of contractors.

A number of issues were raised by the single respondent submitting comments in response to the second proposed rule. These resulted in some minor changes to clarify the rule. No comments were submitted by the Chief Counsel for Advocacy of the Small Business Administration.

The Defense Contract Management Agency, which has the overall responsibility for managing Government-furnished property, estimates that approximately 4,400 contractors possess Government-furnished property and, of this total, approximately one-fourth, or 1,100 contractors, are small businesses. All contractors in possession of Government property will be equally affected by the revision in reporting rules.

This rule will remove the mandatory \$5,000 unit acquisition cost dollar threshold for reporting. This will not

significantly impact items valued at less than \$5,000 in unit acquisition cost, as they were also previously required to be reported if they were serially managed, mission essential, sensitive, or controlled inventory. There is potential for eventual elimination of some other electronic reporting tools, such as DoD's Commercial Asset Visibility (CAV) system. There are presently over 900 separate applications of CAV, all of which can be eliminated given the new reporting constructs contained within this rule. This will result in greater efficiency and considerable cost savings to both Government and industry.

All DoD contractors with Government-furnished property will be equally affected. However, DoD's Item Unique Identification (IUID) Registry is already in use by contractors with Government-furnished property. Under this final rule, DoD contractors will continue to use the IUID Registry for property reporting, but they will report somewhat different classes of property than they had been, and DoD will phase out the use of other property management systems.

DoD is responsible for entering new items in the IUID Registry, and contractors will be responsible only for reporting a change in state of the item. In the associated information collection justification, DoD estimated that the data are entered by the equivalent of a GS-11, step 5, that there will be

approximately 5 responses annually per contractor, and that each response will take approximately one hour.

These changes were necessitated by the requirement for DoD to establish and maintain proper accountability for its property. The approach selected is designed to provide a single, electronic property management system and eliminate the many overlapping and parallel accountability systems currently in use. The result should be less costly for the DoD and its contractors, including small entities, while providing enhanced accountability.

V. Paperwork Reduction Act

This rule affects the information collection requirements in Government property reporting provisions prescribed at DFARS part 211, currently approved under OMB Control Number 0704-0246 (which covers DFARS part 245, Government Property, DFARS section 211.274, Reporting of Government-Furnished Equipment in the DoD Item Unique Identification (IUID) Registry, the related clauses at DFARS 252.245-7000 through -7004 and 252.211-7007, and the related forms) in the amount of 53,560 hours, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact of this rule, however, is negligible, because the requirements of the final rule are not expected to significantly increase the overall burden hours approved under clearance number 0704-0246.

List of Subjects in 48 CFR Parts 211, 212, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 211, 212, and 252 are amended as follows:

PART 211- DESCRIBING AGENCY NEEDS

1. The authority citation for 48 CFR part 211 is revised to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

2. Section 211.274-2 is amended to read as follows—

a. By removing, in paragraph (b)(2), the phrase “FAR Part 12 or Part 8” and adding in its place “FAR part 12 or part 8”;

b. By revising paragraph (b)(2)(ii) to read as follows:

211.274-2 Policy for unique item identification.

* * * * *

(b) * * *

(2) * * *

(ii) The DoD Unique Identification Policy Office must receive a copy of the determination and findings required by paragraph (b)(2)(i) of this subsection. Follow the procedures at PGI 211.274-2.

3. Section 211.274-4 is revised to read as follows:

211.274-4 Policy for reporting of Government-furnished property.

(a) It is DoD policy that all Government-furnished property be recorded in the DoD Item Unique Identification (IUID) Registry, as defined in the clause at 252.211-7007, Reporting of Government-Furnished Property.

(b) The following items are not required to be reported:

- (1) Contractor-acquired property, as defined in FAR part 45.
- (2) Property under any statutory leasing authority.
- (3) Property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance-based payments.
- (4) Intellectual property or software.
- (5) Real property.
- (6) Property released as work in process.
- (7) Non-serial managed items (reporting is limited to receipt transactions only).

4. Section 211.274-6 is amended by—

a. Revising paragraph (a)(1);

c. Revising paragraph (b).

The revisions read as follows:

211.274-6 Contract clauses.

(a)(1) Use the clause at [252.211-7003](#), Item Identification and Valuation, in solicitations and contracts that require item identification or valuation, or both, in accordance with [211.274-2](#) and [211.274-3](#).

* * * * *

(b) Use the clause at [252.211-7007](#), Reporting of Government-Furnished Property, in solicitations and contracts that contain the clause at FAR 52.245-1, Government Property.

* * * * *

5. The authority citation for 48 CFR part 212 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

6. Amend section 212.301 by—

a. Redesignating paragraphs (f)(iv)(F) through (Q) as paragraphs (G) through (R); and

b. Adding new paragraph (f)(iv)(F) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(F) Use the clause at 252.211-7007, Reporting of Government-Furnished Property, as prescribed in 211.274-6.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Section 252.211-7007 is revised to read as follows:

252.211-7007 Reporting of Government-Furnished Property

As prescribed in [211.274-6](#) (b), use the following clause:

REPORTING OF GOVERNMENT-FURNISHED PROPERTY (AUG 2012)

(a) *Definitions.* As used in this clause—

"Commercial and Government entity (CAGE) code" means—

(i) A code assigned by the Defense Logistics Agency Logistics Information Service to identify a commercial or Government entity; or

(ii) A code assigned by a member of the North Atlantic Treaty Organization that the Defense Logistics Agency Logistics Information Service records and maintains in the CAGE master file. The type of code is known as an "NCAGE code."

"Contractor-acquired property" has the meaning given in FAR clause 52.245-1. Upon acceptance by the Government, contractor-acquired property becomes Government-furnished property.

"Government-furnished property" has the meaning given in FAR clause 52.245-1.

"Item unique identification (IUID)" means a system of assigning, reporting, and marking DoD property with unique item identifiers that have machine-readable data elements to distinguish an item from all other like and unlike items.

"IUID Registry" means the DoD data repository that receives input from both industry and Government sources and provides storage of, and access to, data that identifies and describes tangible Government personal property. The IUID Registry is—

(i) The authoritative source of Government unit acquisition cost for items with unique item identification (see DFARS 252.211-

7003) that were acquired after January 1, 2004;

(ii) The master data source for Government-furnished property; and

(iii) An authoritative source for establishing the acquisition cost of end-item equipment.

"National stock number (NSN)" means a 13-digit stock number used to identify items of supply. It consists of a four-digit Federal Supply Code and a nine-digit National Item Identification Number.

"Nomenclature" means—

(i) The combination of a Government-assigned type designation and an approved item name;

(ii) Names assigned to kinds and groups of products; or

(iii) Formal designations assigned to products by customer or supplier (such as model number or model type, design differentiation, or specific design series or configuration).

"Part or identifying number (PIN)" means the identifier assigned by the original design activity, or by the controlling nationally recognized standard, that uniquely identifies (relative to that design activity) a specific item.

"Reparable" means an item, typically in unserviceable condition, furnished to the Contractor for maintenance, repair, modification, or overhaul.

"Serially managed item" means an item designated by DoD to be uniquely tracked, controlled, or managed in maintenance, repair,

and/or supply systems by means of its serial number.

"Supply condition code" means a classification of materiel in terms of readiness for issue and use or to identify action underway to change the status of materiel (see <http://www.dtic.mil/whs/directives/corres/pdf/400025m.pdf>).

"Unique item identifier (UII)" means a set of data elements permanently marked on an item that is globally unique and unambiguous and never changes, in order to provide traceability of the item throughout its total life cycle. The term includes a concatenated UII or a DoD recognized unique identification equivalent.

"Unit acquisition cost" has the meaning given in FAR clause 52.245-1.

(b) *Reporting Government-furnished property to the IUID Registry.* Except as provided in paragraph (c) of this clause, the Contractor shall report, in accordance with paragraph (f), Government-furnished property to the IUID Registry as follows:—

(1) Up to and including December 31, 2013, report serially managed Government-furnished property with a unit-acquisition cost of \$5,000 or greater.

(2) Beginning January 1, 2014, report—

(i) All serially managed Government-furnished property, regardless of unit-acquisition cost; and

(ii) Contractor receipt of non-serially managed items.

Unless tracked as an individual item, the Contractor shall report non-serially managed items to the Registry in the same unit of packaging, e.g., original manufacturer's package, box, or container, as it was received.

(c) *Exceptions.* Paragraph (b) of this clause does not apply to-

- (1) Contractor-acquired property;
- (2) Property under any statutory leasing authority;
- (3) Property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance-based payments;
- (4) Intellectual property or software;
- (5) Real property; or
- (6) Property released for work in process.

(d) *Data for reporting to the IUID Registry.* To permit reporting of Government-furnished property to the IUID Registry, the Contractor's property management system shall enable the following data elements in addition to those required by paragraph (f)(1)(iii)(A)(1) through (3), (5), (7), (8), and (10) of the Government Property clause of this contract (FAR 52.245-1):

- (1) Received/Sent (shipped) date.
- (2) Status code.
- (3) Accountable Government contract number.
- (4) Commercial and Government Entity (CAGE) code on the

accountable Government contract.

(5) Mark record.

(i) Bagged or tagged code (for items too small to individually tag or mark).

(ii) Contents (the type of information recorded on the item, e.g., item internal control number).

(iii) Effective date (date the mark is applied).

(iv) Added or removed code/flag.

(v) Marker code (designates which code is used in the marker identifier, e.g., D=CAGE, UN=DUNS, LD=DODAAC).

(vi) Marker identifier, e.g., Contractor's CAGE code or DUNS number.

(vii) Medium code; how the data is recorded, e.g., barcode, contact memory button.

(viii) Value, e.g., actual text or data string that is recorded in its human-readable form.

(ix) Set (used to group marks when multiple sets exist).

(6) Appropriate supply condition code, required only for reporting of reparables, per Appendix 2 of DoD 4000.25-2-M, Military Standard Transaction Reporting and Accounting Procedures manual (<http://www.dtic.mil/whs/directives/corres/pdf/400025m.pdf>).

(e) When Government-furnished property is in the possession of subcontractors, Contractors shall ensure that reporting is accomplished using the data elements required in paragraph (d) of

this clause.

(f) *Procedures for reporting of Government-furnished property.*

Except as provided in paragraph (c) of this clause, the Contractor shall establish and report to the IUID Registry the information required by FAR clause 52.245-1, paragraphs (e) and (f)(1)(iii), in accordance with the data submission procedures at

http://www.acq.osd.mil/dpap/pdi/uid/data_submission_information.htm

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(g) *Procedures for updating the IUID Registry.*

(1) Except as provided in paragraph (g)(2), the Contractor shall update the IUID Registry at <https://bpn.gov/iuid> for changes in status, mark, custody, condition code (for reparable only), or disposition of items that are—

(i) Received by the Contractor;

(ii) Delivered or shipped from the Contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor;

(iii) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract as determined by the Government property administrator, including reasonable inventory adjustments;

(iv) Disposed of; or

(v) Transferred to a follow-on or other contract.

(2) The Contractor need not report to the IUID Registry

those transactions reported or to be reported to the following DCMA
etools:

(i) Plant Clearance Automated Reutilization and Screening
System (PCARSS); or

(ii) Lost, Theft, Damaged or Destroyed (LTDD) system.

(3) The contractor shall update the IUID Registry as
transactions occur or as otherwise stated in the Contractor's
property management procedure.

(End of clause)

8. Section 252.251-7000 is amended by—

a. Amending the clause date by removing "(NOV 2004)" and adding
in its place "(AUG 2012)";

b. Revising paragraph (c) introductory text;

c. Redesignating paragraphs (d) and (e) as paragraphs (e) and
(f); and

d. Adding a new paragraph (d).

The revisions and additions read as follows:

252.251-7000 Ordering From Government Supply Sources

* * * * *

(c) When placing orders for Government stock on a reimbursable
basis, the Contractor shall—

* * * * *

(d) When placing orders for Government stock on a non-
reimbursable basis, the Contractor shall—

(1) Comply with the requirements of the Contracting Officer's authorization; and

(2) When using electronic transactions to submit requisitions on a non-reimbursable basis only, place orders by authorizing contract number using the Defense Logistics Management System (DLMS) Supplement to Federal Implementation Convention 511R, Requisition; and acknowledge receipts by authorizing contract number using the DLMS Supplement 527R, Receipt, Inquiry, Response and Material Receipt Acknowledgement.

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